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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1230

DISTRICT OF COLUMBIA, *Petitioner*,

v.

EQUITABLE LIFE INSURANCE COMPANY, *Respondent*.

Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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PRINTING DIVISION—D. C. GOVERNMENT

INDEX

PAGE

SUBJECT INDEX

Opinions below ---- 1
Jurisdiction ---- 2
Questions presented ---- 2
Statutes involved ---- 3
Statement of the case ---- 3
Basis for federal jurisdiction in the lower courts ---- 5
Reasons for granting the writ ---- 5
1. Conflict with decisions of this Court ---- 5
2. Erroneous construction of statute ---- 5
3. Impact of the decision ---- 5
Conclusion ---- 15
Appendix (separately indexed)

CITATIONS

Commercial Standard Ins. Co. v. *Hixson*, 175 Tenn. 239, 133 S. W.2d (1939) 11
County of Todd v. *St. Paul M. & M. Ry.*, 38 Minn. 137, 36 N. W. 108 (1888), writ of error dismissed 142 U. S. 282 (1892) ---- 11
Denman v. *Slayton*, 282 U. S. 514 (1931) ---- 9-10
Ford v. *Delta and Pine Land Co.*, 164 U. S. 662 (1897) ---- 7, 8-9, 11, 12, 13, 14, 15
General American Life Ins. Co. v. *Bates*, 363 Mo. 143, 249 S. W. 2d 458 (1952) ---- 11
General Motors Corporation v. *District of Columbia*, 380 U. S. 553 (1965) 7
Helvering v. *Northwest Steel Mills*, 311 U. S. 46 (1940) ---- 11
Kluczynski v. *Hospital Service Corp. of Western N. Y.*, 282 App. Div. 276, 123 N. Y. S.2d 183 (1953) ---- 11
Mayor and City Council of Baltimore v. *Williams*, 61 F.2d 374 (4th Cir. 1932), reversed on other grounds, 289 U. S. 36 (1933) ---- 11
Millers' Mut. Fire Ins. Co. v. *City of Austin*, 210 S. W. 825 (Tex.Civ.App. 1919) ---- 11

PAGE

Millsaps College v. *Jackson*, 275 U. S. 129 (1927) 11
Milwaukee Electric Ry. & Light Co. v. *Wisconsin Tax Comm'n*, 207 Wis. 523, 242 N. W. 312 (1932) 11
People ex rel. Westchester Fire Ins. Co. v. *Davenport*, 91 N. Y. 574 (1888) 11
J. W. Perry Co. v. *Norfolk*, 220 U. S. 472 (1911) 11
Pittman v. *Housing Authority of Baltimore City*, 180 Md. 457, 25 A.2d 466 (1942) 11
Seton Hall College v. *South Orange*, 242 U. S. 100 (1916) 11
Southland Inv. Co. v. *Jefferson*, 171 La. 106, 129 So. 722 (1930) 11
State ex rel. Attorney General v. *State Tax Comm'n*, 40 N. M. 29, 58 P.2d 1204 (1936) 11
United States v. *Atlas Life Ins. Co.*, U. S. 233 (1965) 9-10
Whitcomb v. *Ramsey County*, 91 Minn. 238, 97 N. W. 879 (1904) 11
Yazoo & Mississippi Ry. v. *Adams*, 180 U. S. 1 (1901) 11

STATUTES

District of Columbia Code 1961:

§ 35-105 ..... 3, 7, 9, 13, 14
§ 35-204 9
§ 35-404 9
§ 35-501(d) 9
§ 35-535 (6)(c) 5, 13
§ 47-1207 10
§ 47-1208 14
§ 47-1502(d)(9) 14
§ 47-1554(g) 14
§ 47-1801 ..... 16a
§ 47-1806 ..... 3, 7, 13, 14

MISCELLANEOUS AUTHORITIES

American Life Convention Legal Bulletin, Vol. 94, No. 2, Feb. 1966, p. 25 .. 6
ANDERSON, VANCE ON INSURANCE, 778 (1931) 9
CROBAUGH, HANDBOOK OF INSURANCE, 778 (1931) 9

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Petitioner, the District of Columbia, a municipal corporation, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit entered in these cases on January 17, 1966.

OPINIONS BELOW

The decision of the District of Columbia Tax Court and its findings of fact and opinion are not officially reported, but are printed in Appendix A hereto, *infra* p. 1a. The opinion of the division of the Court of Appeals rendered on

January 17, 1966, has not been officially reported, but is printed in Appendix B hereto, *infra* p. 7a.

JURISDICTION

The decision of the District of Columbia Tax Court was entered April 8, 1965, Appendix A, p. 1a. The judgment of the Court of Appeals was entered January 17, 1966. Appendix C, *infra* p. 9a. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1) and D. C. Code, 1961 edition, Section 47-2404.

QUESTIONS PRESENTED

Where Equitable Life Insurance Company, solely for the purposes of investment and not for its own use, purchased a printing press of a value of approximately $300,000 and leased it to a commercial printer in the District of Columbia, and thereafter claimed exemption of the printing press from District personal property taxes, the questions presented are:

1. Should not the provision of the District of Columbia statute taxing an insurance company's net premium receipts, that the tax shall be "in lieu of all other taxes", be considered as referring only to the property of the company held for the transaction of its business of insuring, so as to exclude from exemption or commutation of taxes a printing press owned by it and leased to another corporation.

2. Even if the provision of the taxing statute that the tax on net premium receipts shall be "in lieu of all other taxes", is construed to apply as well to all property which by the terms of its charter it is at liberty to acquire, as to property held for the transaction of its insurance business, is not the commutation of taxes or exemption so limited that it does not extend to tangible personal property which the company acquired under authority of a *subsequent* act of Congress in which is found no commutation or exemption provision.

STATUTES INVOLVED

The pertinent sections of the acts of Congress relating to insurance companies and personal property taxation in the District of Columbia, §§ 35-105, 35-535(6) (c), 47-1207, and 47-1806 (and to a lesser degree §§ 35-204, 35-404, 35-501(d), 47-1207, 47-1208, 47-1502(d)(9), 47-1554(g), and 47-1801) of the D. C. Code 1961, are set forth in Appendix D, *infra* pp. 9a-17a.

STATEMENT OF THE CASE

The Congress imposed a 2% premium tax on insurance companies in the District of Columbia and provided that, with certain exceptions, the tax should be "in lieu of all other taxes". With certain exceptions not here relevant, the Congress also imposed a tax on all tangible personal property in the District of Columbia.

Respondent, Equitable Life Insurance Company (hereinafter Equitable), brought proceedings in the District of Columbia Tax Court for a refund of personal property tax deficiences for the fiscal years 1962-1965, assessed by petitioner, District of Columbia (hereinafter District), pursuant to the District's personal property tax act (D. C. Code 1961, §§ 47-1201 *et seq.*). (J. A. 1-8.)

Equitable is a domestic life insurance corporation which owns a printing press of a value of approximately $300,000 which, under the authority of a 1960 statute, it purchased as an investment and leased to a printing company in the District of Columbia for a ten-year term at a fixed rental. Under the terms of its agreement with its lessee, Equitable has received an annual rental of 6½% of the money invested by it in the printing press. At all relevant times Equitable, as required by §§ 35-105 and 47-1806 of the D. C. Code 1961, had paid to the District as taxes a sum of money equal to 2% of its net premium receipts or consideration received on all insurance and annuity contracts on risks in the District of Columbia.

In its opinion, but not as a finding of fact, the District of Columbia Tax Court stated that the printing press was necessary for Equitable's business as an insurance company. During the trial, however, the Tax Court made repeated statements demonstrating its view that the printing press has no relation to the insurance business and is not needed in the operation of the company. Moreover, Equitable's attorney told the Tax Court that he had "no facts" to show any such relationship.[1] And none were adduced. (R. *passim.*)

Following a decision of the Tax Court reversing the action of the District in assessing the taxes, on the ground that, under the statute providing a tax on net premium receipts of insurance companies, Equitable is not liable for personal property taxes on its printing press, the District appealed

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[1] "THE COURT: You dont think that the fact that this property has no relation to the insurance business has any effect?" (J. A. 11.)

* * *

"THE COURT: I thought you said you were going to show that these people, this machine, was related to your business.

* * *

"THE COURT: I thought you were talking about fact, not law.
"MR. ALTMANN: Just law, your Honor, I am sorry.
"THE COURT: Are these all the facts that you want?
"MR. ALTMANN: Yes, your Honor.
"THE COURT: All right. *I thought you told me that the ownership of the printing press had some relation to your business as an insurance company and that you were going to show it.*
"MR. ALTMANN: *I misunderstood you and misspoke myself,* your Honor.
"THE COURT: I asked you a question whether or not you thought *the fact that this printing press was not related to your business,* I mean *to the petitioner's business as an insurance company,* would have any effect upon the outcome or what [the] outcome of this case ought to be and you said well you were going to show that the printing press had some relation to the insurance company business.
"MR. ALTMANN: I meant by that by reciting the District of Columbia investment statutes for insurance companies, your Honor.
"THE COURT: All right. That is law.
"*I was talking about facts.*
"MR. ALTMANN: *No; I have no facts.* (J. A. 13-14.) (Emphasis supplied.)

* * *

"THE COURT: [*T*]*hat is what troubles me in this case. This equipment is not needed in the operation of the insurance company.* * * *

* * *

"THE COURT: * * * *The use of the press has no relation to the insurance business.*" (J. A. 21.) (Emphasis supplied.)

to the United States Court of Appeals for the District of Columbia Circuit. A division of that Court affirmed the decision of the Tax Court except as to the recovery of interest on the refunds, regarding which the parties had stipulated both in the Tax Court and in the Court of Appeals.

BASIS FOR JURISDICTION IN THE LOWER COURTS

These proceedings were commenced by Equitable in the District of Columbia Tax Court under § 47-2403, D. C. Code 1961. The District, pursuant to § 47-2404, D. C. Code 1961, perfected appeals to the Court of Appeals for the District of Columbia Circuit.

REASONS FOR GRANTING THE WRIT

The Court of Appeals has.

(a) In conflict with applicable decisions of this Court, erroneously construed the statute taxing net insurance premium receipts.

(b) Erroneously construed the statute taxing net insurance premium receipts so as to affect every insurance company, domestic, foreign, and alien, authorized to engage in business in the District, and to permit them to invest now in personal property almost without limitation of kind or quantity[2] and yet be exempt from District of Columbia personal property taxes.

Impact of the Decision

If allowed to stand, this decision will have an important direct effect on the District of Columbia, for undoubtedly the decision is already known of nation-wide by insurance

[2] Section 35-535 of the D. C. Code does limit domestic insurance company investments to fifteen classes of intangible investments and to equipment and machinery, and there is a provision that no insurance company "shall invest an amount in excess of 2 per centum of its admitted assets in * * * equipment or machinery leased or to be leased to any one corporation", but (aside from the practical need for some liquid assets) 100 per centum of a domestic insurance company's assets could be invested in equipment or machinery leased to others.

companies[3] for its holding that the District is a tax-free haven for investment in personal property if an insurance company pays even a nominal amount of tax on District of Columbia insurance premiums. If not reversed, insurance companies will be permitted to invest tax free in the District of Columbia in, for example, office equipment, electronic equipment, including computers, railroad rolling stock, construction equipment, and, indeed, equipment and machinery of every kind and description.[4] Such freedom of investment without paying any tax on the return therefrom can be expected to drive out of the business all other companies in the District engaged in leasing every type of machinery or equipment. The many existing business so engaged are subject to District personal property taxes and cannot maintain their position against tax-free competitors. Moreover, those now using their own personal property in their businesses in the District will find it to their economic advantage to sell their equipment to insurance companies who, free from the payment of personal property taxes thereon, could lease it back to its former owners at reduced rates. For this situation to obtain, it should be clearly shown (as it has not been) that Congress intended such a result. Of far greater importance, however, is the national impact.

To the extent that the decision below does not serve as a precedent for similar decisions throughout the country, it would act as a magnet to draw to the District tax-free investments to the detriment of investment in other jurisdictions and also to the detriment of tax revenue in those other jurisdictions.

Many states, however, have provisions in their insurance

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[3] See, *e. g.*, *American Life Convention Legal Bulletin*, Vol. 94, No. 2, Feb. 1966, p. 25.

[4] The District of Columbia personal property tax base is composed of three groups: (1) inventories; (2) supplies; and (3) furniture, fixtures, machinery and equipment. The property subject to tax in the third class is valued at $41,750,000 and produces 41%, or $4,192,000 annually, of all District personal property tax revenues.

and other tax laws under which a certain tax is imposed "in lieu" of all other taxes. Heretofore such statutes have been construed—in accord with the decisions of this Court—as not providing tax immunity for all property.[5] Should, contrary to the controlling decisions of this Court, the decision below be permitted to stand and be followed by state courts, the effect of this Court's decisions on state statutes generally will be substantially lost and the tax revenues of state and local governments consequently decreased.

In this respect, this case may be likened to *General Motors Corporation* v. *District of Columbia*, 280 U. S. 553 (1965), where this Court recognized that, "* * * at times application of the District Code has an impact not confined to the Potomac's shores, but reaching far beyond. * * *"

A. The "in lieu" provision applies only to property held for transaction of business of the company.

Sections 35-105 and 47-1806 of the D. C. Code provide that, with certain exceptions, the insurance premium tax thereby imposed shall be "in lieu of all other taxes". Equitable seeks to use the "in lieu" provision to shelter from District personal property taxation a printing press of the value of $300,000, which it bought as an investment and leased to a District of Columbia printing company for a ten-year term at a fixed rental.

Ford v. *Delta and Pine Land Co.*, 164 U. S. 662 (1897) construed an equally broad exemption statute. The statute there provided that "* * * *all the property* and effects of said company *shall be exempt* until said road is completed. *Provided,* said road is commenced within two years and completed within ten years from and after passage of this act." 164 U. S., at 665 (emphasis supplied).

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[5] See, for example, the decisions of eight states at note 9, *infra*, construing state "in lieu" statutes in accord with the decisions of this Court. See in addition the decisions of the five states cited by this Court in *Ford* v. *Delta and Pine Land Co.*, 164 U. S. 662, 667 (1897), *infra* p. 8.

Notwithstanding the breadth of the Mississippi exemption statute, unqualified except for the time imitations, this Court held in *Ford* that the railroad property was *not* exempt under the statute for two reasons:

(1) such an exemption is to be construed as referring only to property held for the transaction of the business of the company, and

(2) even if rule (1) were to be disregarded, such an exemption does not extend to property acquired under a *subsequent act* of the legislature in which is found no exemption clause.

This Court's holding on the first of these two points was as follows:

> "It has been frequently decided that a general exemption of the property of a corporation from taxation is to be construed as referring only to the property held for the transaction of the business of the company. *Ramsey County* v. *Chicago, Milwaukee &c. Railway,* 33 Minnesota, 537; *Todd County* v. *St. Paul, Minneapolis &c. Railway,* 38 Minnesota, 163; *Illinois Central Railroad* v. *Irvin,* 72 Illinois, 452; *In re Swigert,* 119 Illinois, 83; *State* v. *Mansfield Commissioners;* 23 N. J. Law, 510; *State* v. *Newark,* 25 N. J. Law, 315; *Vermont Central Railroad* v. *Burlington,* 28 Vermont, 193; *Railroad Company* v. *Berks County,* 6 Penn. St. 70; *Worcester* v. *Western Railroad,* 4 Met. 564; *Tucker* v. *Ferguson,* 22 Wall. 527; *Bank* v. *Tennessee,* 104 U. S. 493, 497. In this latter case, after referring to several of the authorities just cited, it was said: 'The doctrine declared in them, that the *exemption* in cases like the one in the charter before us *extends only to the property necessary for the business of the company,* is founded in the wisest reasons of public policy. *It would lead to infinite mischief if a corporation, simply by investing its funds in property not required for the purpose of its creation, could extend its immunity*

> *from taxation, and thus escape the common burden of government.'"* 164 U. S., at 667 (emphasis supplied).

Respondent's business is insurance, specifically life insurance. Insurance handbooks,[6] as well as District of Columbia statutes,[7] demonstrate the truism that the business of an insurance company is insurance. That the business of insurance does not include the purchase of a printing press at a cost of approximately $300,000 and the leasing of it to a commercial printing company was recognized by the District of Columbia Tax Court during the proceedings.[8]

From the materials set forth in footnotes 6-8, and particularly from the statutes cited in footnote 7, it is evident that, when the Congress enacted the "in lieu" statutes, it visualized the function of insurance companies in the District to be the writing of policies of insurance and not the operation of other commercial ventures. Thus, under *Ford* v. *Delta and Pine Land Co., supra,* the "in lieu" provisions apply only to the property held for the transaction of Equitable insurance business. Its printing press is not held for that purpose and it is, accordingly, subject to District of Columbia personal property taxes.

Recognition of the propriety of classification with respect to the taxation of insurance companies has recently been restated by this Court in the following words:

> "'While guaranteed exemptions must be strictly observed, this obligation is not inconsistent with reasonable classification designed to subject all to the payment of their just share of a burden

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[6] ANDERSON, VANCE ON INSURANCE (3d ed., 1951) § 1; CROBAUGH, HANDBOOK OF INSURANCE, 778 (1931).

[7] See D. C. Code 1961, §§ 35-105, 35-204, 35-404, and 35-501(d) in Appendix D, pp. 9a-11a *infra.*

[8] See n. 1, supra.

fairly imposed.'" *United States* v. *Atlas Life Ins. Co.*, 381 U. S. 233, 246 (1965), quoting *Denman* v. *Slayton*, 282 U. S. 514, 519 (1931).

In *Atlas* the Court discussed the question whether it is proper to tax one insurance company because it invested in a certain kind of property while another such company is not taxed because it invested in a different and exempt kind of property. The Court stated:

> "It is said, however, that a company investing 'idle' assets in municipal bonds and thereby adding exempt interest to its income will pay more tax, and at a higher rate per dollar of taxable income, than if it had not made the additional investment at all. Likewise, it is claimed, two companies having the same amount of investment in taxable securities and the same amount of commitments to policyholders, but one having some municipal securities in addition, will have a different tax bill, the latter paying more tax and at a higher rate because of the ownership of the bonds. But insurance companies accumulate funds to invest and they must, and do, invest. Their choice is not between investing and not investing at all but between investing in one kind of securities or another." 381 U. S., at 250.

Under § 47-1207 of the D. C. Code only *tangible* personal property is subject to taxation. There is no District of Columbia tax on intangible personal property. Obviously, Equitable could have invested its funds in intangible rather than in tangible personal property. Thus, in the words of *Atlas*, Equitable's "choice is not between investing or not investing at all, but between investing in one kind of • • • [property] or another."

Many courts in addition to this Court have held that a statute providing that a specified tax or payment in lieu

of all taxes does not give an unlimited exemption and that certain taxes may still be imposed.[9]

As this court has often stated, exemptions from taxation are to be strictly construed in favor of the public and against those claiming exemption.[10] Furthermore, exemptions will be strictly construed as to the taxes included within the exemption.[11] "* * * [W]here there is room for reasonable doubt as to total or partial exemption, the latter alone should be recognized."[12]

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[9] *Southland Inv. Co.* v. *Jefferson*, 171 La. 106, 129 So. 722 (1930) (personal property tax); *Pittman* v. *Housing Authority of Baltimore City*, 180 Md. 457, 25 A. 2d 466, 469-70 (1942) (deed recordation tax); *Whitcomb v. Ramsey County*, 91 Minn. 238, 97 N. W. 879 (1904) (real property tax); *County of Todd* v. *St. Paul M. & M. Ry.*, 38 Minn. 137, 36 N. W. 108, 110-11 (1888) (real property tax), writ of error dismissed 142 U. S. 282 (1892); *State ex rel. Attorney General* v. *State Tax Comm'n*, 50 N. M. 299, 58 P 2d 1204 (1936) (real and personal property taxes); *People ex rel. Westchester Fire Ins. Co.* v. *Davenport*, 91 N. Y. 574 (1888) (personal property tax); *Commercial Standard Ins. Co.* v. *Hixson*, 175 Tenn. 239, 133 S. W. 2d 493 (1939) (tax on business of insuring titles); *Millers' Mut. Fire Ins. Co.* v. *City of Austin*, 210 S. W. 825 (Tex. Civ. App. 1919) (provision that where insurance company pays ½% tax on gross premiums "no other tax shall be required", *held* not to preclude ad valorem taxes on property); *Milwaukee Electric Ry. & Light Co.* v. *Wisconsin Tax Comm'n*, 207 Wis. 523, 242 N. W. 312 (1932) (property tax on motor vehicles). See also the Illinois, Minnesota, New Jersey, Pennsylvania, and Vermont decisions cited by this Court in *Ford* v. *Delta and Pine Land Co.*, 164 U. S. 662, 667 (1897), quoted *supra* at pp. 8-9. *Cf. General American Life Ins. Co.* v. *Bates*, 363 Mo. 143, 249 S. W. 2d 458 (1952) (provision that 2% tax on insurance premiums was in lieu of all taxes upon intangible property, *held* unconstitutional).

[10] *Helvering* v. *Northwest Steel Mills*, 311 U. S. 46, 49 (1940); *Seton Hall College* v. *South Orange*, 242 U. S. 100, 106 (1916); *J. W. Perry Co.* v. *Norfolk*, 220 U. S. 472, 480 (1911); *Yazoo & Mississippi Ry.* v. *Adams*, 180 U. S. 1, 22 (1901) ("Exemptions from taxation are not favored by law, and will not be sustained unless such clearly appears to have been the intent of the legislature. Public policy in all the States has almost necessarily exempted from the scope of the taxing power large amounts of property used for religious, educational and municipal purposes; but this list ought not to be expanded except for every substantial reasons; and while, as we have held in many cases, legislatures may in the interest of the public contract for the exemption of other property, such contract should receive a strict interpretation, and every reasonable doubt be resolved in favor of the taxing power. Indeed, it is not too much to say that courts are astute to seize upon evidence tending to show * * * that such exemptions were not originally intended * * *.")

[11] *Mayor and City Council of Baltimore* v. *Williams*, 61 F. 2d 374 (4th Cir. 1932), reversed on other grounds, 289 U. S. 36 (1933); *Kluczynski* v. *Hospital Service Corp. of Western N. Y.*, 282 App. Div. 276, 123 N. Y. S. 2d 183 (1953).

[12] *Millsaps College* v. *Jackson*, 275 U. S. 129, 132 (1927) (city tax upheld on property owned by tax-exempt college and rented out with rental being used solely for college operating expenses).

B. The exemption does not extend to property acquired under a *subsequent* act containing no exemption.

In *Ford* v. *Delta and Pine Land Co., supra,* the Court said further with respect to the Mississippi exemption statute:

> "* * * [I]t is clear that *even if the exemption is properly construed as applying not only to the property necessary for the business of the railroad company but also to all other property which by the terms of its charter it was at liberty to acquire, it does not extend to property which, not necessary for its business, it acquired under the authority of a subsequent act of the legislature, in which is found no exemption clause.* The act of 1867, reviving the charter, authorized the corporation to receive payment of subscriptions to its capital stock in lands, provided the lands were within five miles of the line of its road; and if the exempting clause can be construed to apply to property other than that used in the business of the company it would be limited to property which by the charter, as it then stood, it was authorized to acquire. Subsequently thereto, and in 1890, it was authorized to receive in the way of subscription to its capital stock lands lying anywhere within the limits of the State, and it was under this authority that it took title to the lands in question. Now, in this act of 1870 is no mention of any exemption, nothing to suggest that the legislature intended that this roving authority to take title to lands carried with it the right to withdraw all the lands thus taken from the burdens of taxation, and it would be clearly in violation of the accepted rule of construction in respect to contracts of exemption to extend the provisions of the exempting clause in the acts of 1859 and 1867 to property, the right to acquire which was conferred solely by the subsequent act." 164 U.S., at 668-69 (emphasis supplied.)

Under the foregoing, even if the commutation or exemption were construed to apply not only to the property held for the transaction of the insurance business, but also to all other property which by the terms of its charter it was at liberty to acquire, the commutation or exemption "does not extend to property which, not necessary for its business, it acquired under the authority of a subsequent act of the legislature, in which is found no exemption clause." A printing press not used in the insurance business but leased to a commercial printing concern is manifestly not "necessary" for the insurance business.[13] Under *Ford* it becomes important to determine whether the statute authorizing investment in equipment or machinery represents a "subsequent act" in relation to the "in lieu" provisions.

As the basis for the exemption or commutation of taxes, both the Tax Court and the Court of Appeals relied on the "in lieu" provisions of §§ 35-105 and 47-1806 of the D.C. Code 1961 (Appendices A and B *infra* pp. 1a and 7a), the sources of which were, respectively, (1) acts of 1901, 1902, and 1937,[14] and (2) acts of 1937 and 1938.[15] Both courts also bottomed their decisions upon § 35-535 (6) (c) of the D.C. Code 1961, cited by Equitable for the proposition that it had legal authority for investing its funds in the subject printing press leased to a commercial printing firm (Appendices A and B, *infra*, pp. 1a and 7a). Subsection 6 (c) was added to the Life Insurance Act by a 1960 act.[16] Thus, the courts below relied on the Acts of 1901, 1902, 1937, and 1938 for exemption, and on

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[13] See the Tax Court's statements at trial, *supra* n. 1.

[14] The Act of March 3, 1901, 31 Stat. 1291, ch. 854, § 650, as amended by the Act of June 30, 1902, 32 Stat. 534, ch. 1239, and as impliedly amended by the Act of August 17, 1937, 50 Stat. 676, ch. 690, Title II, § 6 (D. C. Code 1961, § 35-105).

[15] The Act of August 17, 1937, 50 Stat. 676, ch. 690, Title II, § 6, as amended by the Act of May 16, 1938, 52 Stat. 358, ch. 223, § 2 (D. C. Code 1961, § 47-1806).

[16] The Act of September 8, 1960, 74 Stat. 864, Pub. L. 86-732, § 1(b) (D. C. Code 1961, § 35-535 (6)(c)).

the 1960 act for Equitable's authority to acquire the printing press. In the language of *Ford* v. *Delta and Pine Land Co., supra,* the 1960 statute is a "subsequent act of the legislature, in which is found no exemption clause." Under *Ford,* commutation or exemption does not extend to such property.

C. When Congress has intended to exempt insurance companies from District of Columbia taxes, it has so stated, as in the case of the District of Columbia Franchise Tax Acts of 1939 and 1947.

When Congress has intended to exempt insurance companies from the provisions of District taxing statutes, Congress has known how to do so. Witness the 1939 Income Tax Act [17] and the 1947 Income and Franchise Tax Act [18] of the District of Columbia, where Congress expressly provided that insurance companies which pay taxes on their premiums shall be exempt from District franchise taxes. If the "in lieu" provisions of §§ 35-105 and 47-1806 of the D.C. Code are complete, self-operating, and subject to no construction whatsoever, as held by the courts below, the Congress did a useless thing in the 1939 and 1947 taxing acts when it exempted insurance companies from the taxes imposed by those acts. Surely Congress is not to be presumed to have done a useless, nugatory act.

Section 47-1208 of the D.C. Code, which enumerates the exemptions from the District's personal property tax act, does *not* exempt personal property of insurance companies. Under *Ford* and under logic, the Equitable Life Insurance Co. is liable for District personal property taxes on its $300,000 printing press which it has leased to a commercial printer.

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[17] D. C. Code, 1961, § 47-1502(d)(9).

[18] D. C. Code, 1961, § 47-1554(g).

CONCLUSION

The District of Columbia Tax Court gave only cursory attention to this Court's decision in *Ford* v. *Delta and Pine Land Co.*, 164 U.S. 662, upon which petitioner District of Columbia has relied. The Court of Appeals made no mention of the case although it was fully briefed and strongly urged upon the Court of Appeals. As stated by this Court in *Ford*, "It would lead to infinite mischief if a corporation, simply by investing its funds in property not required for its creation, could extend its immunity from taxation, and thus escape the common burden of government." 164 U.S., at 667.

If this Court's opinions are to be over-ruled, even silently, the over-ruling should be done by this Court itself and not by lesser courts.

Moreover, Congress has not expressly exempted insurance companies from District of Columbia personal property taxes, as it has from District franchise taxes.

For the foregoing reasons, the petition for writ of certiorari in this case should be granted.

Respectfully submitted,

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